

# IN THE SUPREME COURT OF TEXAS

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No. 06-0575

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KNAPP MEDICAL CENTER, PETITIONER,

v.

JAVIER E. DE LA GARZA, AND JAVIER E. DE LA GARZA, M.D., P.A.,  
RESPONDENTS

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ON PETITION FOR REVIEW FROM THE  
COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS

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## ON MOTION FOR REHEARING

On rehearing, Dr. De La Garza complains that our opinion fails to address his alternative theory of recovery based on fraud. Under this theory, De La Garza contends that the hospital's representation that it would contribute \$200,000 to settle his claim fraudulently induced him to make a written Stowers demand on the hospital's insurer to settle for policy limits. He further submits that his judgment against the hospital for \$200,000 is fully supported by the trial court's findings of fact and conclusions of law on fraud. Thus, De La Garza concludes that, even if the hospital's oral agreement to contribute to the settlement cannot be enforced, he is nevertheless entitled to the benefit of this bargain under the alternative theory. We disagree.

Texas Rule of Civil Procedure 11 is essentially a "statute of frauds" for settlement agreements. *See* 7 WILLIAM V. DORSANEO III, TEXAS LITIGATION GUIDE § 102.02[5] (2007). We

have previously rejected attempts to “use a fraud claim essentially to enforce a contract the Statute makes unenforceable” as an improper circumvention of the statute’s purpose. *Haase v. Glazner*, 62 S.W.3d 795, 799 (Tex. 2001); *see also Nagle v. Nagle*, 633 S.W.2d 796, 801 (Tex. 1982). Thus, we have held that “the Statute of Frauds bars a fraud claim to the extent the plaintiff seeks to recover as damages the benefit of a bargain that cannot otherwise be enforced because it fails to comply with the Statute of Frauds.” *Haase*, 62 S.W.3d at 799. Similarly, a fraud claim cannot be used to circumvent Rule 11 in this manner and thereby enforce an otherwise unenforceable settlement agreement.

Dr. De La Garza’s motion for rehearing is overruled.

Opinion delivered: December 14, 2007

[Original opinion](#)